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Secretary for
Environmental
Protection



Department of Toxic Substances Control

Edwin F. Lowry, Director
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Gray Davis
Governor

August 16, 1999

Mr. Michael T. Haro, Manager
Environmental Division
Lockheed Martin Skunk Works
MTH 0699/112
1011 Lockheed Way
Palmdale, California 93599

ONSITE RECYCLING OF WASTEWATER

Dear Mr. Haro:

Thank you for your June 14, 1999 letter requesting clarification of DTSC's policy regarding the regulation of wastewater treatment units engaged in recycling. According to your letter, Lockheed's facility in Palmdale is currently designing a new wastewater treatment system which will incorporate treatment and recycling of metal-bearing rinse waters. You would like to know if DTSC's 1992 policy regarding the recycling of the hazardous, nonhazardous, or both portions of the waste is still in effect, and if so, whether any standards for minimum percentages of recovered water have been established since that time.

As your letter notes, and as mentioned above, DTSC issued a fact sheet, entitled, "Recycling Exclusions, Exemptions, and Tiered Permitting Fact Sheet", dated December 1992. This fact sheet was intended to provide clarification concerning the recycling provisions of Health and Safety Code (HSC) section 25143.2 and how they relate to the tiered permitting provisions. Page three of this fact sheet, which your letter also quoted, states:

"The generator can recycle the hazardous, nonhazardous, or both portions of the waste onsite in order to meet the terms of the exemption or exclusion. The Department has determined that it is sufficient to recycle only the water portion of

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the hazardous waste to qualify for the exemption or exclusion. However, the Department may be reviewing this issue in the future and may establish standards for minimum amounts or percentages of recovered water actually reused onsite in order to qualify for a recycling exemption or exclusion. The Department will seek input from industry if we decide to establish such recycling standards. In any case, recycling activities must not be considered a "sham" as discussed in the January 4, 1985 Federal Register (Vol. 50, No. 3, page 638). Clearly, the larger the percentage of material recycled onsite, the more certain the recycling activity will be viewed as legitimate."

The above statement was DTSC's policy in 1992 and is still in effect. However, to date, no specific standards for minimum percentages of recovered water actually reused onsite have been established. HSC 25143.2 does not explicitly require that a "significant percentage" or other fraction of material actually be reused onsite in order for an exemption or exclusion to be applicable. Arguably, HSC section 25143.2 may be interpreted to require that all of the recycled material be reused onsite; however, DTSC has interpreted HSC section 25143.2 to cover instances where less than 100 percent of the recycled material is reused onsite (e.g., where it was shown that reusing 100 percent of a given recycled material was impossible due to the quality of the material, or the need for it onsite). With respect to wastewaters, DTSC has decided, on a case-by-case basis, that reusing less than 100 percent of the recycled water onsite entitles the recycler to claim a HSC section 25143.2 exemption or exclusion. This decision is necessarily based on consideration of whether the waste is regulated under the federal Resource Conservation and Recovery Act, whether a 'sham' (i.e., fraudulent) recycling operation is being conducted, and other factors, including whether the various conditions for operating under a HSC section 25143.2 exemption or exclusion are satisfied.

If DTSC decides in the future to reassess the subject December 1992 policy, DTSC will gather input from the regulated community and other interested parties. DTSC appreciates your continued commitment to recycling. If you have any questions regarding this letter, please contact Mr. Norman Riley of my staff at (916) 324-1806 or write to me at the letterhead address.

Sincerely,

[Original Signed]
Watson Gin,
Acting Deputy Director
Hazardous Waste Management Program

cc: See next page.

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cc: Mr. Bill Jones
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